



September 3, 2009

Clerk of the Board
Air Resources Board
1001 "I" Street
Sacramento, CA 95814

Re: On-Road Heavy-Duty Diesel Rule – 15 Day Comments

Dear Clerk:

The California Construction & Industrial Materials Association (CalCIMA) appreciates the effort by the Board to incorporate the many provisions and amendments to this rule, and we offer these comments.

Industry

CalCIMA represents ready mixed concrete, aggregate, and industrial mineral producers throughout California. Our members operate ready mixed concrete delivery fleets (mixer trucks), as well as various other fleets to assist with the production and delivery of construction materials. These fleets share a common characteristic in that they generally are driven locally and have lower mileage and turnover compared to many of the long-distance fleets that are the primary target of the regulation. For example, the average ready mixed concrete delivery distance is less than 15 miles.

Also, our members' production facilities are multi-faceted and complex and, thus, subject to a number of different diesel rules. Specifically, they are affected by the On-Road, Off-Road, Stationary, Portable Equipment, Drayage, and Forklift rules. As such, there is considerable challenge for operators to comply with multiple rules in a relatively short period of time. Thus, for several reasons, CalCIMA member fleets are affected in unique ways.

Comments

(d)(3) 2008 Fleet Baseline.

- Given the low-economic activity in 2008, we recommend re-considering the base year for determining fleets. Recommendations include using either 2007 as a closer approximation to an average year, or using a 3 year average.

- We also believe the 1,000 miles threshold may be too high. The concern is, again, that many trucks will not drive that much given the reduced economic activity. In subsequent years, when the trucks are driven more, they will then be considered as a new truck entering the fleet, even though they have always been part of it. We suggest changing the definition to, “1,000 miles *and less than 100 hours*” as is in (d)(47).

Drayage vs. On-road Rule. It appears all trucks utilizing ports will be under the Drayage Rule—regardless of how much time is spent at the ports—rather than the On-road diesel rule. This is a concern, since there are instances where a very small percentage of a truck’s activities will be at a port. We recommend a threshold level at which a truck is in the On-road vs Drayage rule.

(d)(47) **Low-Use Vehicle.** Since installing an hour meter on older equipment may not be possible, we suggest changing to a “functioning odometer *or* an hour meter.”

(k) **Retired Vehicle Credit.** This is a very helpful provision, and we are very appreciative of the Board adopting it. We offer these comments to clarify its applicability and utility.

- We notice it does not appear to apply to those following the BACT Requirements compliance option.
- Again, we would suggest using a different baseline. The year 2007 would make sense because it reflects more closely a typical year and would be the same as the baseline used in the Off-road diesel rule.
- It would seem there may be need for more clarity on what is considered “retired.” We mention this to ensure operators can receive credit for situations where a vehicle is 1) demolished; 2) an operator retires—but does not necessarily sell—a vehicle because it is non-operational or 3) the operator uses the vehicle for scrap parts and metal.

(P)(1)(E) **Compliance Extension Based on Early Action.** Again, this is a very helpful provision. However, we are concerned the action date of Jan. 1, 2010 will not make it a viable option for many operators. This is because the process to get a new VDECS installed has many aspects and is time-consuming from initial evaluation to installation. For instance, time is required to get a determination that a device is available and fits, time is required to order parts, and then it takes at least 30 days to install once the VDECS arrive. Also, the initial fleets applying for VDECS are particularly going through a longer time-frame than can be expected at a later point when the devices are more common. We suggest moving this date to Jan. 1, 2011.

(r)(13) **Early Retirement Reporting Date.** Due to the limited time to gauge how fleets will be affected, current unavailability of reporting forms, and incomplete information on the details of the final regulation, we suggest moving the reporting day of March 31, 2010 to June 31, 2010.

Courtesy Inspection. We also note that it appeared the Board agreed to adopt a "courtesy inspection" program at the December 12 Board meeting. Since many of our members are affected by multiple and complex rules, with substantial overlap in compliance schedules, this could be a very helpful provision. We are interested in knowing the status of a courtesy inspection program.

We appreciate your consideration of our comments and would look forward to further discussion.

Sincerely,

A handwritten signature in cursive script that reads "Charles L. Rea".

Charles L. Rea
Director of Communications & Policy

Attachment – transcripts related to "courtesy inspection"

BOARD MEETING
STATE OF CALIFORNIA
AIR RESOURCES BOARD

JOE SERNA, JR. BUILDING
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
BYRON SHER AUDITORIUM, SECOND FLOOR
1001 I STREET
SACRAMENTO, CALIFORNIA

FRIDAY, DECEMBER 12, 2008

8:30 A.M.

TIFFANY C. KRAFT, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 12277

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 CHAIRPERSON NICHOLS: Nick Pfeifer. Excuse me.

2 Mr. PFEIFER: I'm Nick Pfeifer, Special
3 Operations for Granite Construction's Corporate Equipment
4 Department. And one of my responsibilities in that
5 position is ensuring Granite's fleet is in compliance with
6 CARB emissions regulations.

7 Granite owns and operates about 600 heavy-duty
8 diesel trucks in California. And I would like to hit on
9 two issues that come to the top with reference to
10 Granite's fleet.

11 The majority of Granite's trucks are support
12 equipment in nature. They're service trucks, fuel lube
13 truck, trucks that service heavy equipment and support our
14 jobs. And in that application, it is very difficult to
15 retrofit those trucks.

16 I'm not going to argue the point that the
17 retrofit market for on-highway trucks is far advanced
18 relative to the off-road markets. But in the low load
19 application in many instances a retrofit is just not
20 possible.

21 So I would ask that you consider -- to take the
22 time to consider the challenges that we face with
23 retrofitting vocational duty vehicles and make the
24 appropriate adjustments in those applications.

25 The second concern I have is the cumulative

1 effect of this regulation with other CARB regulations. We
2 currently fall under six fleet rules this would make
3 number seven. And it's very challenging and complicated
4 when you start combining rules.

5 My request would be that CARB were to start a
6 courtesy inspection program similar to what Cal/OSHA
7 offers where a company can request an inspection. And
8 CARB can come out, work with the company. The company
9 would open their books. Open their fleet for inspections.
10 And would then be given a grace period to remedy any
11 situations that are uncovered.

12 I have the same concern that there needs to be
13 very strong enforcement with all of these CARB rules to
14 maintain an even playing field. But I think a program
15 like this would compliment the enforcement rather than
16 undermine it.

17 CHAIRPERSON NICHOLS: Thank you. Appreciate the
18 suggestion.

19 Josh Pane.

20 MR. PANE: Madam Chair, Josh Pane on behalf of
21 the California Bus Association.

22 First, we would like to applaud the Board for
23 their work over these many months. Applaud the staff, Mr.
24 Goldstene's staff, and all of their work. We've worked
25 scores of hours, and finally we came to a position of

1 to be a little conservative in terms of how I respond to
2 the UCS proposal in saying, yes, we want to be very
3 aggressive, but we want to be do it in a more robust way.

4 So I usually wouldn't propose this, but I say
5 let's go slow on this one in terms of any further action
6 with the idea that eventually we will get a very strong
7 program and hopefully a national program that we can work
8 with.

9 CHAIRPERSON NICHOLS: But in terms of the down
10 payment that was proposed when we adopted the Discrete
11 Early Actions, you're comfortable this one is good enough
12 to move forward on?

13 BOARD MEMBER SPERLING: With the caveat about the
14 caps.

15 CHAIRPERSON NICHOLS: That's helpful. Thank you.
16 Okay. Back to the truck rule.

17 BOARD MEMBER BERG: Chairman Nichols.

18 CHAIRPERSON NICHOLS: I was just recognizing Ms.
19 D'Adamo.

20 BOARD MEMBER BERG: I'm so sorry.

21 BOARD MEMBER D'ADAMO: I have a couple of just
22 minor items, hopefully minor. I like the suggestion that
23 Granite Construction has regarding a courtesy inspection
24 program. Seems to be a lot of confusion out there.

25 The truck industry is subject to a number of

1 different regulations. And I'd like staff to -- I don't
2 know if it could be included in this regulation or if
3 staff could bring a program back to us at a later time.
4 And then I also --

5 CHAIRPERSON NICHOLS: I agree with that one, by
6 the way. I would second that.

7 BOARD MEMBER BALMES: I would third it.
8 Especially when an employer says they like the Cal/OSHA
9 program. We want to see it replicated.

10 CHAIRPERSON NICHOLS: We want to know how that
11 worked.

12 BOARD MEMBER D'ADAMO: So there's nodding heads
13 on that one. Good.

14 On enforcement, I don't believe staff talked much
15 about it. But what can we do -- there's a lot of people
16 that are going to go the extra mile and spend a lot of
17 money on this regulation. And enforcement is just
18 crucial.

19 The concern I had I think somebody talked about
20 the idling regulations and had some criticism about lack
21 of enforcement. So, of course, for those that are
22 complying, it's frustrating when you hear about someone
23 that's not complying. And idling is a small action in
24 terms of compliance. This rule is going to be huge in
25 terms of compliance.

1 forward by adopting those that the staff has recommended,
2 along with the last that Member Berg suggested with others
3 of the attainment area -- and I'm trying to think if there
4 are -- the enforcement -- there's some enforcement --

5 CHAIRPERSON NICHOLS: Direction.

6 BOARD MEMBER RIORDAN: Direction and financial
7 direction, financial assistance direction.

8 Are we missing anything else?

9 BOARD MEMBER D'ADAMO: Courtesy inspection
10 program.

11 BOARD MEMBER RIORDAN: Courtesy inspection.

12 BOARD MEMBER BERG: Was there anything on the
13 school bus?

14 CHAIRPERSON NICHOLS: I wasn't --

15 EXECUTIVE OFFICER GOLDSTONE: You didn't make
16 any --

17 CHAIRPERSON NICHOLS: I didn't make any request,
18 because I couldn't come up with a good answer.

19 BOARD MEMBER BERG: Could we add the school bus
20 to the economic, specifically have an area -- a focus on a
21 school bus within the economic review so that we can
22 monitor that very carefully?

23 EXECUTIVE OFFICER GOLDSTONE: Yeah.

24 CHAIRPERSON NICHOLS: Yeah. I have a broader
25 concern. I don't exactly understand which districts

1 operate their own buses, which of them rent out to other
2 contracts. Whether the contract buses, because they're
3 operated by private fleet owners, are cleaner or not. You
4 know, these are things that you sort of would like to know
5 before deciding how to go about tailoring a regulation. I
6 don't feel that we've really ever looked at that.

7 BOARD MEMBER BERG: Could we ask for that
8 information to come back in a year?

9 CHAIRPERSON NICHOLS: I think we should. Good
10 plan.

11 BOARD MEMBER RIORDAN: That would be included,
12 but I would like to move forward on this.

13 And I move that -- recognizing that I know our
14 legal counsel is going to want us to do ex partes at some
15 point in time.

16 CHAIRPERSON NICHOLS: Before we actually vote.

17 BOARD MEMBER RIORDAN: I'd like to put that in
18 the form of a motion of the adoption with the suggestions
19 that staff has made, plus the others that we just
20 enumerated.

21 BOARD MEMBER D'ADAMO: I'll second that motion.

22 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

23 WHITE: Chairman Nichols, we need two small clarifications
24 before.

25 We need a clarification as to whether or not the

1 BOARD MEMBER RIORDAN: Madam Chair, if I might,
2 just as the maker of the motion. We need to acknowledge
3 the date again with the staff proposed -- I don't know
4 that your amendments but --

5 EXECUTIVE OFFICER GOLDSTONE: 15 day changes.

6 BOARD MEMBER RIORDAN: To the July 1st, 2008, for
7 the --

8 EXECUTIVE OFFICER GOLDSTONE: We could quickly
9 run through those.

10 Eric, why don't you do that?

11 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

12 WHITE: Okay. We have on the list a courtesy inspection
13 program for fleets to help them determine compliance.

14 We have return to the Board, update to the Board
15 by the end of 2009 with workshops prior to that to discuss
16 funding and how many fleets are taken advantage of that.

17 The state of the economy as well as the impacts
18 that is having on emissions.

19 And also update on school buses.

20 We also have a direction to go back and look
21 at -- I'm unclear whether it's the PM requirements in
22 rural attainment areas as it relates just to logging or to
23 all vehicles.

24 EXECUTIVE OFFICER GOLDSTONE: We'll look at both.

25 BOARD MEMBER RIORDAN: Both.